DEVELOPER FEE POLICY

Updated April 9, 2024

Los Angeles Unified School District
Developer Fee Policy

ARTICLE I. PURPOSE

Section 1.1 Objective

The purpose of the Los Angeles Unified School District (District) Developer Fee Policy (Policy) is to define allowable uses of the collected fees; identify use priorities; provide guidelines for setting developer fee rates; describe collections and projections development; and describe statutory and District exemptions, the appeals process, and periodic reporting. This Policy aims to offer direction to all operational units within the District that may be impacted by it. It is affirmed that if any portion of this policy is found to be unlawful then the rest of the policy shall remain in effect.

ARTICLE II. BACKGROUND

Section 2.1 Statutory

Education Code Section 17620(a)(1) authorizes the governing board of any school district to levy a fee, charge, dedication, or other requirements against any construction within the boundaries of a district to fund the construction or reconstruction of school facilities. Developer fees are a type of statutory fee levied on residential and/or commercial/industrial construction, which helps to minimize the impact of the construction on school facilities.

ARTICLE III. USES

Section 3.1 Authorized Uses

Generally, developer fees may be utilized for any project that provides additional capacity to District schools to accommodate an increase in students in a certain neighborhood(s) and/or provide reconstructed/modernized school facilities to ensure schools are safe and can be occupied, and that the District can maintain existing levels of service for students and has facilities in place to accommodate additional students from residential developments, including projects for which the District has previously incurred debt obligations. The District shall use net developer fee revenue, pursuant to Education Code section 17620 et seq., on permissible projects that have already been approved by the Board. These projects are to be incorporated into the Facilities Services Division (Facilities) Strategic Execution Plan (SEP) unless the project's budget does not include bond funding.

Education Code Section 17620(a)(5) allows the District to use the collected fees for performing any study or making findings and determinations required under subdivisions (a), (b), and (d) of Government Code Section 66001, or in preparing the school facilities need analysis (SFNA) described in Government Code Section 65995.6.

The administrative costs incurred for the collection of fees may not exceed an amount of three (3) percent of the fees collected in that fiscal year. (*See* Gov't. Code section 17620(a)(5).) The Office of the Chief Business Officer (CBO) determines the appropriate usage of the fees for administrative costs.

Section 3.2 Unauthorized Uses

Education Code section 17620(a)(3) does **not** permit the use of developer fees for the following:

1. The regular maintenance and routine repair of school buildings and facilities.
2. The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, <u>except</u> where incidental to school facilities construction or reconstruction, for which the expenditure of fees or other consideration collected is not prohibited.
3. The purpose of district deferred maintenance funds as described in Education Code section 17582, including, but not limited to, major repair or replacement of plumbing, heating, air-conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings; the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials; the encapsulation or removal of asbestos-containing materials; the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials; and the control, management, and removal of lead-containing materials.

ARTICLE IV. SETTING FEES

Section 4.1 Setting Developer Fee Rates

Developer fees are assessed against residential and commercial or industrial storage within the District's boundaries. Residential construction fees also apply to both home remodeling and rebuilding. The maximum fees for the Level 1 residential rate and commercial/industrial rate are determined by the State Allocation Board (SAB). Government Code section 65995(b)(3) requires the SAB to adjust the Level 1 fee at its January meeting every even-numbered year according to adjustment for inflation outlined in the statewide cost index for Class B construction. Developer fee rates on residential construction are higher than those for commercial/industrial construction, as residential construction has a greater impact on school facility needs.

Per Government Code section 66001(a), the local agency shall do the following before imposing a developer fee as a condition of approval of a development project:

a. Identify the purpose of the fee.
b. Identify the use of the fee.
c. Determine a reasonable relationship between the fee's purpose and use; and
d. Determine a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Section 4.2 Alternative School Facilities Fee

School districts may assess higher residential fees (Level 2 or Level 3) annually when certain criteria related to hardship or overcrowding have been met. (*See* Ed. Code section 17620 and Gov't. Code sections 65995.5, 65995.6, and 65995.7.) The Chief Business Officer will coordinate the effort for Level 2 fee eligibility, which involves the following actions:

1. The Facilities Services Division must apply to the State Allocation Board for new construction funding, which is eligible and determined by the Board to meet the eligibility requirements for new construction.
2. The Office of the Chief Business Officer shall conduct, and the Board shall adopt a School Facility Needs Analysis (SFNA), following statutory procedures:
   a. The District must notify local planning agencies through registered mail and provide copies of the proposed SFNA, relating to the potential expansion of existing school sites or the necessity to acquire additional school sites (*see* Exhibit A) 45 days before the final SFNA. Within 15 days of receiving notification of a meeting requested by a local planning agency, the District must meet with the agency.
   b. A public notice must be published in a newspaper of general circulation no less than 30 days before the public hearing.
   c. The Board must conduct a public hearing, respond to written comments, and close the hearing.
   d. The Board shall adopt the annual SFNA by resolution at a public hearing. The SFNA may be adopted only after the study has been made available to the public for a period of no less than 30 days (Gov't. Code section 65995.6(c)).
   e. The SFNA, the adopted resolution, and a map of the District's boundaries must be sent to all local cities and the County.
3. The Office of the Chief Business Officer shall determine if it meets at least two of the requirements outlined in Government Code section 65996.5(b)(3), regarding enrollment in a multi-track year-round schedule, placement of general obligation bonds on the ballot, issuance of debt for capital outlay, and use of portable classrooms.
4. The Alternative School Facilities Fee shall be calculated based on the number of unhoused pupils identified in the SFNA and the full amount of local funds the governing board has dedicated to facilities necessitated by new construction as fully described in and per Government Code section 65995.5, subdivisions (a) through (h).

Although the SFNA usually includes a Level 3 calculation, the Board of Education is required to approve the Level 3 fee before it can be assessed per Government Code sections 65995.5 and 65995.7(a)(1).

Section 4.3 Assessable and Chargeable Space

When obtaining a building permit, it is typically the responsibility of the issuing city or county to calculate the square footage of residential or commercial/industrial construction for developer fee payment. For the determination of chargeable fees to be paid to the appropriate school district in connection with any commercial or industrial construction under the jurisdiction of the Office of Statewide Health Planning and Development, the architect of record shall determine the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure. (Gov't. Code sections 65995(b)(1) and 65995(b)(2)).

For residential construction, fees are assessed per square foot of "**assessable space**", which is defined as the square footage within the perimeter of a residential structure but excluding any

carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area.

For commercial/industrial construction, fees are assessed per square foot of "**chargeable covered and enclosed space**", which includes the covered and enclosed space within the perimeter of the structure but excludes any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area.

ARTICLE V. COLLECTING AND PROJECTING FEES

Section 5.1 Collection of Fees

As a condition of issuing building permits for construction or developments in the City of Los Angeles, the District has a contract with the city to collect developer fees. The City of Los Angeles remits the collections to the District monthly.

The District's Developer Fee Program Office collects developer fees for construction projects outside the city of Los Angeles but within the District's boundaries.

Section 5.2 Projection of Fees

The Office of the Chief Business Officer will provide a five-year projection of anticipated revenues for developer fees. The five-year projection will be updated on an annual basis by the Office of the Chief Business Officer. Additionally, the Office of the Chief Business Officer shall project the annual amount of revenues to be received on a quarterly basis. Projections will be provided to the Facilities Services Division to allow for proper planning and allocation of funds.

Section 5.3 Allocation of Net Fees

After the costs associated with administering the developer fee and complying with the required analysis and reporting activities have been deducted, the adjusted, net developer fee revenue shall continue to be allocated to the Facilities SEP for use on permissible projects unless the project's budget does not include bond funding.

ARTICLE VI. EXEMPTIONS

Certain construction projects are statutorily exempt from the payment of developer fees. These exemptions are as follows:

Section 6.1 Statutory Exemptions

1. Accessory Dwelling Units (ADUs)
   a. Pursuant to Education Code Section 17620, ADUs under 500 square feet are not subject to school impact fees. (*See also* California Housing and Community Development's ADU Handbook (July 2022).)

2. Agricultural *(*Gov't. Code section 65995.1(b)) (Ed. Code section 17622(a))

    a. Agricultural migrant worker housing projects financed by the Director of Housing and Community Development and owned by the State and comply with the Special Housing Program for Migratory Workers.

    b. Greenhouse or other agricultural space unless the District complies with both subdivisions (b) and (c) of Ed. Code section 17622.

3. Canceled and Expired Permits (Ed. Code section17624)

    a. Construction for which the building permit expires, without the commencement of construction, shall be repaid or reconveyed less the $50 administrative cost.

    b. California Code of Civil Procedure section 338 allows for a three-year limitation period to request a refund for expired or canceled building permits, starting from the date the refund becomes available (i.e., date of expiration/cancellation of the building permit).

4. Demolition (Voluntary) (Ed. Code section 17620(a)(1)(A) and (C))

    a. Developer fees are applicable only to the total resulting increase in assessable space for residential developments and chargeable and enclosed space for commercial/industrial redevelopments.

    b. No demolition credit or partial refund for the demolition of exempt structures (i.e., garages, detached storage, etc.).

5. Detached Accessory Structure (Gov't. Code section 65995(b)(1))

    a. Assessable space does not include any carport, covered or uncovered walkway, garage, overhang, patio, enclosed patio, or similar areas.

6. Natural Disaster Replacement (Ed. Code section 17626)

    a. The rebuilding of a home damaged by a natural disaster, such as fire, flood, earthquake, landslide, mudslide, or tidal wave, is exempt up to the original square footage.

    b. See Section 6.2 for additional eligibility criteria.

7. Exclusive Religious Use (Gov't. Code section 65995(d))

    a. Facilities that are used exclusively for religious purposes. Property is to be owned and operated by a church, and property is used for exclusively religious worship, and property is deemed exempt from property taxation under the laws of the state.

8. Government Facilities (Gov't. Code section 65995(d))

    a. Facilities that are owned and occupied by one or more agencies of the federal, state, or local government.

9. Less than 500 square feet. (Ed. Code section 17620(C)(i))

    a. Fees can only be levied for additions to an existing residential property that exceeds five hundred square feet of assessable space.

10. Parking Structures. (Gov't. Code section 65995(b)(2))
    a. Fees are not chargeable on parking garages incidental to the principal use of a dwelling.

11. Private School Development (Gov't. Code section 65995(d); Ed. Code section 48222)
    a. Any facility used exclusively as a private full-time day school for K-12 students.

Section 6.2 Board Authorized Exemptions Eligibility

1. Affordable Housing
    a. Developers of affordable housing projects will be charged a rate equivalent to the Level 1 rate provided that a waiver is requested and processed by the District's Developer Fee Program Office. Affordable Housing is defined as those projects where at least 20% of the units are for persons or families of lower income households and the remaining units are for persons or families of moderate-income households as defined by the Department of Housing and Urban Developer (HUD).
2. Natural Disaster Replacement
    a. To receive credit or a partial refund for the *reconstruction* of a home damaged by a natural disaster, the legal owner(s) must provide proof of the damage or destruction as a result of a *disaster*, as defined by Education Code Section 17626.
    b. No credit or partial refund is provided for the square footage of exempt structures (e.g., garages, patios, etc.).
3. Senior Citizen Housing
    a. Except as provided by law, a development project whose facilities are designated specifically and exclusively for use by senior citizens are exempt from developer fees. However, any project involving only new construction that includes 150 or more units and is owned or operated by a profit-making entity is subject to the developer fee assessment at the commercial/industrial rate pursuant to Government Code section 65995.1 and Education Code section 17620.

ARTICLE VII. REDUCED RATE

Section 7.1 Reduced Rate Residential Developments

Certain residential development projects may statutorily qualify for the reduced commercial/industrial rate.

1. Senior Citizen Housing (Gov't. Code section 65995.1(a))
    a. New residential construction dedicated for senior citizen development, as defined in Civil Code section 51.3, or
    b. New residential care facility for the elderly, as defined in Health & Safety Code section 1569.2.

The District's calculation of the developer fee for a senior citizen housing development and the following requirements must be met and submitted prior to issuance of a waiver for a building permit, or partial refund:

1. Execution of the Restrictive Covenant and Agreement.
2. Appropriate recording/stamp of the Restrictive Covenant and Agreement with the Los Angeles County Recorder.
3. Current grant deed or quitclaim deed.

2. Short-Term Housing (Gov't. Code section 65995(d))
   a. This includes, but is not limited to, any hotel, inn, motel, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed thirty (30) days. This does not include any residential hotel (building with 6 or more guest rooms used as the primary residence).

ARTICLE VIII. ACCESSORY DWELLING UNITS (ADUS)
Section 8.1 Accessory Dwelling Units

The state of California recognizes the significance of ADUs as a housing option and aims to ensure that homeowners have the freedom to create these units without unnecessary restrictions. The suitability of exemptions for ADUs will be assessed on a case-by-case basis, taking their specific size into account.

As per Gov't. Code section 65852.2(e) and section 65852.22(a), a single-family dwelling is allowed to have only one ADU and one JADU. It is not permissible for a single-family residence to have two ADUs or two JADUs.

As per Gov't. Code section 65852.2(e)(1)(C), multi-family dwellings must allow for at least one ADU and up to a quarter of the number of existing units of the multi-family dwelling.

ARTICLE IX. REQUESTS, PROTESTS, AND APPEALS
Section 9.1 Requests for Refunds

Requests for a refund of the Developer Fees paid are processed by the District's Developer Fee Program Office and must be received by the office no more than 90 days from payment of the fee. The City of Los Angeles only refunds building permit fees for canceled or expired projects if the claim is submitted within 90 days of payment. All other requests, including developer fee refunds for uninitiated, canceled projects within the City of Los Angeles for payments made more than 90 days ago, are processed and must be received by the District's Developer Fee Program Office within three years of the issuance of the permit.

Refunds for developer fees are given in the form of a check. The legal property owner(s) at the time the fees were paid will receive the refund check, regardless of who originally paid the developer fee, unless otherwise mandated by law.

Section 9.2 Appeals: District Process

The District allows parties against whom a fee has been imposed the opportunity to appeal such fee to the Developer Fee Program Office, to the Director of Capital Planning and Budgeting, and then to the Chief Business Officer or their representative. The final decision regarding any appeal will be made by the Chief Business Officer or their representative.

ARTICLE X. REPORTING

Section 10.1 Financial Reporting

Government Code sections 66001 and 66006 require local agencies, including school districts collecting developer fees, to provide an annual accounting of fees collected, including the beginning, and ending balances, interest and other income, identifications of improvements, approximate dates for the commencement of incomplete improvements, expenditures by project, interfund transfers and loans, and the amount of refunds made, plus a report every fifth fiscal year containing information on ending balances. This information must be reviewed by the Board and made available to the public no later than 180 days after the end of the fiscal year.

EXHIBIT A
Local Planning Agencies

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Local Planning Agencies

City of Bell	City of Long Beach
City of Bell Gardens	City of Lynwood
City of Beverly Hills	City of Maywood
City of Carson	City of Montebello
City of Commerce	City of Monterey Park
City of Cudahy	City of Rancho Palos Verdes
City of Culver City	City of San Fernando
City of Downey	City of Santa Monica
City of El Segundo	City of South Gate
City of Gardena	City of Torrance
City of Hawthorne	City of Vernon
City of Huntington Park	City of West Hollywood
City of Inglewood	City of Los Angeles
City of Lomita	County of Los Angeles